



**CALIFORNIA STATE PERSONNEL BOARD**

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ARNOLD SCHWARZENEGGER, Governor



**CALIFORNIA STATE PERSONNEL BOARD MEETING**

801 Capitol Mall  
Sacramento, California

Public Session Location –

**Holiday Inn Express, Old Town  
3900 Old Town Avenue**

**San Diego, California 92110, Mission Room**

Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

Closed Session Location –

Holiday Inn Express, Old Town  
3900 Old Town Avenue

San Diego, California 92110, Old Town Room

Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California Suite 620

**SUMMARY MINUTES – NOVEMBER 1, 2005**

**SUMMARY MINUTES<sup>1</sup>**

**NOVEMBER 1, 2005**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**1. ROLL CALL**

**Members Present:**

**William Elkins, President**  
**Maeley Tom, Vice President**  
**Ron Alvarado, Member**  
**Sean Harrigan, Member**  
**Anne Sheehan, Member**

**2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**

A. We are working with CPS to provide greater direction and oversight over the two contracts which CPS performs on behalf of the SPB: interpreter certification and county merit services. CPS has agreed to report quarterly to the Board beginning in January 2006.

B. DPA and SPB staff met with Cabinet and Finance over the three joint SPB/DPA BCPs submitted in October. The discussion appeared favorable and promising. We should learn the results in a few weeks.

C. SPB and Assemblyman Dymally will be holding a joint press conference on AB 124 in the State Capitol on November 10, 2005, at 11:00 a.m.

D. SPB is holding a Workforce Planning conference on December 2, 2005. Speakers will include officials from New York and DPA.

E. The next full board meeting will be held in San Francisco on December 6 and 7. It will include a planning session which will discuss the results of the SPB's staff's strategic planning meetings held this fall.

**3. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)**  
**– Ron Alvarado**

Member Ron Alvarado gave a brief report on recent activities of the Public Employees Retirement System.

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<sup>1</sup> The Agenda for the Board can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

**4. REPORT OF THE CHIEF COUNSEL – Elise Rose**

A. SPB staff recently had a productive meeting with Department of Personnel Administration staff regarding the ramifications of the recent Supreme Court decision regarding post and bid provisions in collective bargaining agreements.

B. The Women's Emergency Legal Defense organization recently contacted the SPB to congratulate it for the decision in the Supreme Court post and bid case, and to request further information regarding the ramifications of the decision to various post and bid provisions in collective bargaining agreements.

C. The Chief Counsel has been heavily involved in the interview process for vacant SPB ALJ positions. It is expected that all interviews will be completed by early November, and that hiring decisions will be made by December 2005.

D. The Chief Counsel recently spoke at a lunch-time seminar for Human Resources professionals regarding the ramifications of the recent Supreme Court decision regarding the post and bid process in state civil service.

E. SPB staff has been deposed in the San Diego/Orange County v. State of Calif., et al. lawsuit regarding reimbursements for unfunded state mandates. The Board has not been named as a party in the case.

**5. NEW BUSINESS**

**NONE**

**6. REPORT ON LEGISLATION – Sherry Hicks**

**NONE**

**7. ORAL ARGUMENT**

Oral argument in the matter of **PATRICK BRASS, CASE NO.04-1952A**. Appeal from dismissal. Youth Correctional Counselor. Department of the Youth Authority.

Persons Participating:

William J. Hadden, Attorney, representing appellant.

Barrett McInerney, Attorney, representing the Department of the Youth Authority.

**ACTION: SUBMITTED**

**8. ORAL ARGUMENT**

Oral argument in the matter of **GARY GARFINKLE, CASE NO.98-3128RBA.**  
Appeal for determination of back salary, benefits and interest. Deputy Attorney General IV. Department of Justice.

Persons Participating:

Steven Bassoff, Attorney, representing appellant.  
Lyn Harlan, Attorney, representing the Department of Justice.

**ACTION: SUBMITTED**

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.  
[Government Code Sections 11126(d), 18653.]

**10. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

**11. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.  
[Government Code sections 11126(e)(1) and 18653.]

State Personnel Board v. Department of Personnel Administration,  
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,  
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court,  
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,  
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,  
Sacramento Superior Court No. 04CS00049.

SEIU Local 1000 (CSEA) v. State Personnel Board,  
Sacramento Superior Court No. 05CS00374.

The Copley Press, Inc. v. San Diego Superior Court,  
California Supreme Court No. S128603.

Union of American Physicians and Dentists v. Department of Corrections, et al.,  
United States District Court, Northern District of California.

**12. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.  
[Government Code section 18653.]

**13. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor.  
[Government Code section 18653.]

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**14. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF  
NOVEMBER 15, 2005, IN SACRAMENTO, CALIFORNIA**

**NONE**

**BOARD ACTIONS:**

**15. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF  
OCTOBER 3, 2005**

**ACTION: ADOPTED**

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**16. EVIDENTIARY CASES - (See Case Listings on Page 10-18)**

**17. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE  
SECTION 18671.1 EXTENSION - (See Minutes Page 25-26)**

**ACTION: ADOPTED**

**18. NON-EVIDENTIARY CASES - (See Case Listings on Page 18-21)**

**19. NON-HEARING CALENDAR**

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On November 1, 2005, the Board took the following action on the following proposal as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- A. THE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (ABC)**  
proposes to modify the minimum qualifications for the Deputy Division Chief (DDC), ABC, classification by reducing the minimum service required for its Pattern I from two years to one year and for Pattern II from five years to three years. This will permit candidates in the District Administrator, ABC, class to compete for the DDC, ABC, class in a timelier manner.

**ACTION: ADOPTED**

**20. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

**NONE**

**21. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section served to inform interested individuals and departments of proposed and approved CEA position actions.

**A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA  
POSITIONS CURRENTLY UNDER CONSIDERATION**

**SPECIAL ASSISTANT, FINANCIAL SURVEILLANCE BRANCH**

The Department of Insurance proposes to allocate the above position to the CEA category. The Special Assistant plans and directs highly complex and sensitive special projects; and provides policy influencing advice on a variety of financial, regulatory, legislative, and insurance industry solvency issues.

**ASSISTANT DEPUTY PROJECT DIRECTOR, PROJECT  
ADMINISTRATION AND NETWORK SERVICES**

The Department of Franchise Tax Board proposes to allocate the above position to the CEA category. The Assistant Deputy Project Director is responsible for management oversight and support in the overall development and management of the California Child Support Automation System budget and related contracts.

**DEPUTY DIRECTOR, EXTERNAL AND LEGISLATIVE AFFAIRS  
DEPARTMENT**

The Board of Equalization proposes to allocate the above position to the CEA category. The Deputy Director is responsible for developing and implementing a comprehensive, agency-wide media information plan and overseeing Legislation, Education Outreach, Media Relations, E-Government and Taxpayer Services and Research and Statistics.

**LEGISLATIVE COUNSEL, EXTERNAL AND LEGISLATIVE AFFAIRS  
DEPARTMENT**

The Board of Equalization proposes to allocate the above position to the CEA category. The Legislative Counsel plans, manages, and directs the work of the Legislative Division.

**CHIEF, E-GOVERNMENT AND TAXPAYER SERVICES DIVISION**

The Board of Equalization proposes to allocate the above position to the CEA category. The Chief is responsible for development of taxpayer education material, and the development of improved customer and taxpayer information access through e-government.

**CHIEF, HEADQUARTERS OPERATIONS DIVISION**

The Board of Equalization proposes to allocate the above position to the CEA category. The Chief, Headquarters Operations Division is responsible for formulating, recommending and implementing audit and compliance policies, procedures, practices and standards to ensure the Sales and Use Tax Law and rules are uniformly interpreted and applied statewide.

**MANAGER, RESEARCH AND STATISTICS SECTION**

The Board of Equalization proposes to allocate the above position to the CEA category. The Manager plans, directs, manages, and evaluates the staff and activities of the section, and serves as the Board of Equalization's chief research and statistical advisor.

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS**

**NONE**

**ACTION: NOTED**

**22. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**NONE**

**23. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**NONE**

**24. BOARD ACTIONS ON SUBMITTED ITEMS – (See Minutes - Page 22-24)**

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on these Minutes under Evidentiary Cases.

**25. WORKFORCE PLANNING – Mary Fernandez and Daryll Tsujihara**

State Personnel Board (SPB) staff and Department of Personnel Administration (DPA) staff will provide an informational briefing on Workforce Planning. Topics to be discussed are the CPR Workforce Development Team recommendations, as well as Workforce Planning initiatives currently underway and planned at SPB and DPA.

**NO ACTION**

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**26. POST AND BID DISCUSSION – Elise Rose**

Board to discuss impact and effect of SPB v. CSEA.

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**27. PROPOSED BUDGET CHANGE PROPOSALS (BCPs) – Mary Fernandez and Daryll Tsujihara**

DPA and SPB staff will outline joint BCPs recently discussed with the Governor's Office and the Department of Finance. These proposals address issues outlined in the California Performance Review and Little Hoover Commission reports, including Workforce Planning, Classification and Selection Reform and a single Human Resources (HR) Portal for the state.

**NO ACTION**

**A D J O U R N M E N T**

**16. EVIDENTIARY CASES**

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

**A. BOARD CASES SUBMITTED**

These items have been taken under submission by the State Personnel Board at a prior meeting.

On November 1, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) PATRICK BARBER, CASE NO. 04-0174PA**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

Proposed decision adopted November 3, 2004  
modifying dismissal to 45 calendar days suspension  
Transcript prepared  
Pending oral argument June 7, 2005, Sacramento  
Oral argument continued  
Oral argument heard July 13, 2005, Sacramento  
Case ready for decision by FULL Board

**ACTION:** The Board issued a non-precedential decision modifying appellant's dismissal to a suspension for 45-days. Members Alvarado and Harrigan dissented.

- (2) **JON CHASE, CASE NO. 04-0392A**  
Appeal from 30 working days suspension  
**Classification:** Associate Management Auditor  
**Department:** Employment Development Department

Proposed decision rejected April 19, 2005  
Transcript prepared  
Pending oral argument July 13, 2005, Sacramento  
Oral argument continued  
Oral argument heard August 9, 2005, Sacramento  
Case ready for decision by FULL Board

**ACTION:** The Board issued a non-precedential decision modifying appellant's suspension for 30 working days to a suspension for five working days. Member Harrigan dissented.

- (3) **JOSEPH MARTINEZ, CASE NO. 04- 2690A**  
Appeal from dismissal  
**Classification:** Hospital Police Officer  
**Department:** Department of Mental Health

Proposed decision rejected May 17, 2005  
Transcript prepared  
Oral argument heard August 30, 2005, Los Angeles  
Case ready for decision by FULL Board

**ACTION:** The Board issued a non-precedential decision modifying appellant's dismissal to a suspension for six months. Member Alvarado and Sheehan dissented.

- (4) **ANDREW RUIZ, CASE NO. 04-2391A**  
Appeal from dismissal  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections

Proposed decision rejected June 7, 2005  
Transcript prepared  
Oral argument heard August 30, 2005, Los Angeles  
Case ready for decision by FULL Board

**ACTION:** The Board issued a precedential decision revoking appellant's dismissal, finding that the disciplinary action was not initiated against appellant within the one-year limitations period mandated by Government Code section 3304(d)(1).

**(5) MARK SAMORA, CASE NO. 04-3041A**

Appeal from dismissal

**Classification:** Information Technology Consultant

**Department:** California State University, Los Angeles

Proposed decision rejected July 13, 2005

Transcript prepared

Oral argument heard October 3, 2005, Sacramento

Case ready for decision by FULL Board

**NO ACTION**

**B. CASES PENDING**

**ORAL ARGUMENTS**

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

**(1) PATRICK BRASS, CASE NO. 04-1952A**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

**ACTION: SUBMITTED**

**(2) GARY GARFINKEL, CASE NO. 98-3128RBA**

Appeal from dismissal

**Classification:** Deputy Attorney General IV

**Department:** Department of Justice

**ACTION: SUBMITTED**

**C. CHIEF COUNSEL RESOLUTIONS**

On November 1, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) WARREN SMITH, CASE NO. 05-1042**

Appeal from dismissal

**Classification:** Psychiatric Technician

**Department:** Department of Developmental Services

**ACTION:** The Board issued a Resolution vacating its prior decision dated August 8, 2005, that designated appellant's appeal from disciplinary action as having been withdrawn due to appellant's failure to appear for his hearing, and approving the stipulation for settlement entered into between the parties.

**(2) KATHERINE ASHTON-RICHARDS, CASE NO. 03-0118**

Appeal from six working days suspension

**Classification:** Communications Operator

**Department:** Department of Parks and Recreation

**ACTION:** The Board issued a Resolution denying appellant's request that the Board set aside its prior decision, dated September 2, 2003, that approved the stipulation for settlement entered into between appellant and the Department of Parks and Recreation.

**COURT REMANDS**

These cases would have been remanded to the Board by the court for further Board action.

**NONE**

**STIPULATIONS**

These stipulations would have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

**NONE**

**OTHERS**

**(1) CAROL BIRCH, CASE NO. 05-3330**

Seeking a correction to the record of her appointment to Associate Governmental Program Analyst with the Department of Water Resources.

**Classification:** Associate Governmental Program Analyst

**Department:** Department of Water Resources

**ACTION:** The Board issued a Resolution correcting appellant's appointment to the position of Associate Governmental Program analyst, effective January 1, 2005, as a list appointment, instead of a transfer appointment.

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**PROPOSED DECISIONS**

These were ALJ proposed decisions submitted to the Board for the first time.

On November 1, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) TODD ACOSTA, CASE NO. 05-1766**

Appeal from 22 work days suspension

**Classification:** Correctional Officer

**Department:** Department of Corrections and Rehabilitation

**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the 22 work days suspension to an official reprimand.

**(2) EUSTACE DOUGLAS, CASE NO. 05-1530**

Appeal from five working days suspension

**Classification:** Senior Health Physicist

**Department:** Department of Health Services

**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the five working days suspension.

- (3) **AARON FOUCH, CASE NO. 05-2526**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision granting the motion to dismiss and revoking the dismissal.
- (4) **ANTINO KEENE, CASE NO. 05-1562**  
Appeal from dismissal  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the dismissal to a three month suspension.
- (5) **JOSHUA D. LONZO, CASE NO. 05-0452**  
Appeal from 15 work days suspension  
**Classification:** Officer  
**Department:** Department of California Highway Patrol  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the 15 work days suspension.
- (6) **DANIEL MILROY, CASE NO. 05-0828**  
Appeal from five percent reduction in salary for 12 months  
**Classification:** Correctional Officer  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the five percent reduction in salary for 12 months.
- (7) **EDUARDO PEREZ, CASE NO. 05-0763**  
Appeal from five percent reduction in salary for six months  
**Classification:** Parole Agent I (Adult Parole)  
**Department:** Department of Corrections  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the five percent reduction in salary for six months to an official reprimand.

**Proposed Decisions Taken Under Submission At Prior Meeting**

These would have been ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

**NONE**

**PROPOSED DECISIONS AFTER BOARD REMAND**

NONE

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

NONE

**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On November 1, 2005, the Board took the following action on the following cases as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1) DELORES CASILLAS, CASE NO. 05-1017EP**

Appeal from discrimination complaint

**Classification:** Motor Vehicle Assistant

**Department:** Department of Motor Vehicles

**ACTION:** The Board granted the appellant's petition to vacate the Board's prior decision that designated appellant's complaint of discrimination as having been withdrawn due to appellant's failure to appear for her scheduled hearing, and remanded the case back to the Chief ALJ.

**(2) WILLIAM JOHNSON, CASE NO. 04-1799P**

Appeal from five working days suspension

**Classification:** Correctional Health Services Administrator I, CF

**Department:** Department of Corrections

**ACTION:** The Board denied appellant's petition for rehearing.

**(3) PAUL MINER, CASE NO. 05-0858P**

Appeal from dismissal

**Classification:** Correctional Counselor I

**Department:** Department of Corrections

**ACTION:** The Board denied appellant's petition for rehearing.

### **WHISTLEBLOWER NOTICE OF FINDINGS**

The Board would have voted to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

**NONE**

### **F. PENDING BOARD REVIEW**

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

**(1) PATRICK BRASS, CASE NO. 04-1952A**

Appeal from dismissal

**Classification:** Youth Correctional Counselor

**Department:** Department of the Youth Authority

Proposed decision rejected July 26, 2005

Transcript prepared

Pending oral argument November 1, 2005, San Diego

**ACTION: SUBMITTED**

**(2) LINDA DEOS, CASE NO. 05-0434A**

Appeal from dismissal

**Classification:** Staff Counsel III (Specialist)

**Department:** Employment Development Department

Proposed decision rejected August 30, 2005

Transcript prepared

Pending oral argument December 6-7, 2005, San Francisco

**NO ACTION**

**(3) GARY GARFINKEL, CASE NO. 98-3128RBA**

Appeal for determination of back salary, benefits and interest

**Classification:** Deputy Attorney General IV

**Department:** Department of Justice

Proposed decision rejected July 13, 2005

Transcript prepared

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Pending oral argument November 1, 2005, San Diego

**ACTION: SUBMITTED**

**(4) MINAS MAROKI, CASE NO. 04- 2700A**

Appeal from dismissal

**Classification:** Correctional Officer

**Department:** Department of Corrections

Proposed decision rejected August 9, 2005

Transcript prepared

Pending oral argument November 1-2, 2005, San Diego

**ACTION:** Oral argument cancelled, parties settling. The Board will not vote.

**(5) KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E**

Appeal from denial of reasonable accommodation  
and from constructive medical termination

**Classification:** Office Technician (General)

**Department:** Department of Fish and Game

Proposed decision rejected May 18, 2004

Pending oral argument October 3, 2005, Sacramento

Oral argument continued

Pending oral argument December 6-7, 2005, San Francisco

**NO ACTION**

**18. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff.

**WITHHOLD FROM CERTIFICATION**  
**CASES HEARD BY A STAFF HEARING OFFICER**

**NONE**

**WITHHOLD FROM CERTIFICATION**  
**CASES NOT HEARD BY A STAFF HEARING OFFICER**

On November 1, 2005, the Board took the following action on the following cases as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

- (1) RONALD LIMON, CASE NO. 04-2987**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability; furnished inaccurate information, omitted pertinent information, negative driving, arrest and conviction record and minimum education requirements.  
**ACTION: DENIED**
- (2) DONNA PINEDA, CASE NO. 05-0613**  
**Classification:** Associate Governmental Program Analyst  
**Department:** California Department of Education  
**Issue:** Whether appellant was properly withheld for not meeting the Minimum Qualifications.  
**ACTION: DENIED**
- (3) CRAIG RICHARD, CASE NO. 05-0279**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and furnishing inaccurate information.  
**ACTION: DENIED**
- (4) DAVID RINGLE, CASE NO. 04-2887**  
**Classification:** Correctional Officer  
**Department:** Corrections  
**Issue:** Suitability and omitted pertinent information.  
**ACTION: DENIED**
- (5) JOANNA RIVERA, CASE NO. 04-2885**  
**Classification:** Medical Technician Assistant (MTA)  
**Department:** Corrections  
**Issue:** Suitability; furnished inaccurate information and omitted pertinent information.  
**ACTION: DENIED**

**(6) DAMIEN SANTINI, CASE NO. 05-0283**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Provided inaccurate information.

**ACTION:** Case was withdrawn by SPB Staff. The Board did not vote.

**(7) ISAURO VILLARREAL, CASE NO. 05-0282**

**Classification:** Correctional Officer

**Department:** Corrections

**Issue:** Suitability and furnishing inaccurate information.

**ACTION:** DENIED

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board would have been presented recommendations by a Hearing Panel on each appeal.

**NONE**

**C. EXAMINATION APPEALS  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board would have been presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**EXAMINATION APPEALS**

**NONE**

**MINIMUM QUALIFICATIONS**

**NONE**

**MERIT ISSUE COMPLAINTS**

**NONE**

**D.    RULE 211 APPEALS  
      RULE 212 OUT OF CLASS APPEALS  
      VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board would have been presented recommendations by a Staff Hearing Officer for final decision on each appeal.

**NONE**

**E.    REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board would have been presented recommendations by Appeals Division staff for final decision on each request.

**NONE**

**PETITIONS FOR REHEARING CASES**

On November 1, 2005, the Board took the following action on the following proposal as presented by Laura M. Aguilera, Assistant Executive Officer, California State Personnel Board.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

**(1)    THOMAS MAUNE, CASE NO. 04-2178P**

**Classification:** Special Investigator I

**Department:** Department of Mental Health

**Issue:** Whether SPB erred in upholding the Psychological Screening Unit's decision to psychologically disqualify the appellant.

**ACTION: DENIED**

**SUBMITTED**

**1. TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**3. TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**NO ACTION**

**4. HEARING – Personal Services Contract #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**NO ACTION**

**5. HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**NO ACTION**

**6. PATRICK BARBER, CASE NO. 04-0174A**

Appeal from dismissal. Youth Correctional Officer. Department of Youth Authority. (Oral Argument held July 13, 2005)

**ACTION:** The Board issued a non-precedential decision modifying appellant's dismissal to a suspension for 45-days. Members Alvarado and Harrigan dissented.

**7. JON CHASE, CASE NO. 04-0392A**

Appeal from 30 working days suspension. Associate Management Auditor. Employment Development Department. (Oral Argument held August 9, 2005)

**ACTION:** The Board issued a non-precedential decision modifying appellant's suspension for 30 working days to a suspension for five working days. Member Harrigan dissented.

**8. HEARING – PERSONAL SERVICES CONTRACT # 05-07**

Appeal of Department of General Services (DGS) from the Executive Officer's April 22, 2005 Disapproval of a Proposed Three-Year Cost-Savings Contract with American Building Maintenance janitorial Services for Custodial Services for the Franchise Tax Board. (Hearing held August 9, 2005)

**NO ACTION**

**9. JOSEPH MARTINEZ, CASE NO. 04-2690A**

Appeal from dismissal. Hospital Police Officer. Department of Mental Health. (Oral Argument held August 30, 2005)

**ACTION:** The Board issued a non-precedential decision modifying appellant's dismissal to a suspension for six months. Member Alvarado and Sheehan dissented.

**10. ANDREW RUIZ, CASE NO. 04-2391A**

Appeal from dismissal. Correctional Lieutenant. Department of Corrections. (Oral Argument held August 30, 2005)

**ACTION:** The Board issued a precedential decision revoking appellant's dismissal, finding that the disciplinary action was not initiated against appellant within the one-year limitations period mandated by Government Code section 3304(d)(1).

**11. MARK SAMORA, CASE NO. 04-3041A**

Appeal from dismissal. Information Technology Consultant. California State University, Los Angeles. (Oral Argument held October 3, 2005)

**NO ACTION**

**12. HEARING – PERSONAL SERVICES CONTRACT #05-04**

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) from the Executive Officer's April 1, 2005 Approval of a Contract for Legal Services between the Secretary of State's Office and Renne & Holtzman Public Law Group, LLP (Oral Argument held on October 3, 2005)

**NO ACTION**

**13. HEARING**

Proposed Revisions to Whistleblower Retaliation Complaint Regulations (Title 2, C.C.R., section 56 et. seq.) (Hearings held on September 20, 2005 and October 3, 2005)

**NO ACTION**

**14. HEARING**

Proposed Revisions to Discovery Regulations in Evidentiary Hearings Regulations  
(Title 2, C.C.R., section 57 et. seq.) (Hearings held on September 20, 2005 and  
October 3, 2005)

**NO ACTION**

## **NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

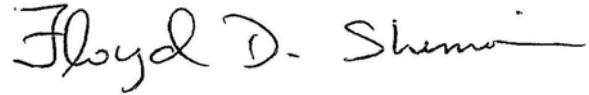
**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on November 1, 2005.

VOTE: Elkins, Tom, Alvarado, Harrigan, Sheehan – Aye

A handwritten signature in black ink, reading "Floyd D. Shimomura". The signature is written in a cursive style with a long horizontal line extending from the end.

FLOYD D. SHIMOMURA  
Executive Officer  
California State Personnel Board